

Historic, Archive Document

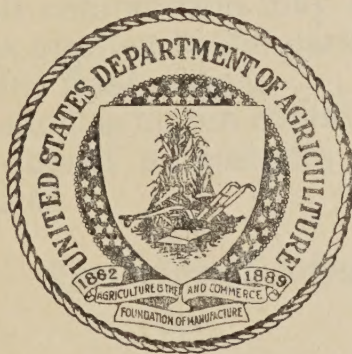
Do not assume content reflects current scientific knowledge, policies, or practices.

UNITED STATES
DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION

LIBRARY
RECEIVED
★ OCT 30 1933 ★
U. S. Department of Agriculture

STATEMENT OF GENERAL POLICIES
AND
MODEL DRAFTS
FOR MARKETING AGREEMENTS
AND CODES OF FAIR COMPETITION

Issued October 24, 1933



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1933

STATEMENT OF GENERAL POLICIES
AND CODES OF FAIR COMPETITION
FOR MARKETING AGREEMENTS
AND CODES OF FAIR COMPETITION
MODEL DRAFTS

CONTENTS

Foreword-----	Page III
Statement of general policies covering marketing agreements and codes of fair competition-----	1
Model for marketing agreement—General form-----	5
Model for code of fair competition—General form-----	11

(II)



FOREWORD

The statement of general policies governing marketing agreements and codes of fair competition, the model for marketing agreements—general form, and the model for codes of fair competition—general form, included herein have been approved by me. They will serve as guides and instructions to the officers of the Agricultural Adjustment Administration and as information to the public concerning the requirements for marketing agreements under the Agricultural Adjustment Act and for codes of fair competition over which the Secretary of Agriculture has jurisdiction under the several Executive Orders issued by the President pursuant to the National Industrial Recovery Act.

It is, of course, to be understood that the statement and the models do not in anywise commit the President or the Secretary of Agriculture to the policies therein contained. The policies to be included in any particular marketing agreement or code of fair competition will be determined by the President and the Secretary of Agriculture when the agreement or code is submitted for final action. Further, the facts developed with respect to any particular marketing agreement or code of fair competition may also necessitate a modification of these policies as applied to the particular agreement or code as recommended by me for final action.

It is expected that the models herein contained will be supplemented from time to time by model agreements or codes for particular commodities and industries.

GEORGE N. PEEK,
Agricultural Adjustment Administrator.

STATEMENT OF GENERAL POLICIES GOVERNING MARKETING AGREEMENTS AND CODES OF FAIR COMPETITION

I. PRELIMINARY

1. Under the Agricultural Adjustment Act and, by Executive Order, under the National Industrial Recovery Act, the interests of agricultural producers or industries processing, distributing, or otherwise handling raw agricultural commodities or products thereof, and of consumers of such commodities and products have been entrusted to the Department of Agriculture.

2. Under the Agricultural Adjustment Act marketing agreements may be used by the Department of Agriculture as one means to secure better farm prices and better conditions in industries processing and distributing agricultural commodities and products. The responsibility for negotiating, approving for submission to the President, and administering codes of fair competition under the National Industry Recovery Act for certain trades and industries and subdivisions thereof has been delegated by Executive Orders of the President to the Department of Agriculture, except that the determination and administration of provisions in such codes relating to hours of labor, rates of pay, and other conditions of employment rests with the National Recovery Administration subject to the Presidential approval. In general, industries, trades, and subdivisions thereof covered at present by the Executive Orders are those engaged principally in handling (1) unprocessed agricultural commodities, except timber, (2) human and animal foods, including beverages, confectionery, condiments, and all substances or preparations used for food or entering principally into the composition of food, (3) nonfood products of grain, (4) inedible animal and vegetable oils and fats, (5) naval stores, (6) feathers, hides, and furs, (7) brooms, (8) hog cholera serum, or (9) tobacco or its products, together with agricultural produce and commodity exchanges and similar organizations, and industries, trades and subdivisions thereof engaged principally in the crushing of cottonseed or flaxseed. Agricultural commodities, as the term is used in the Executive Orders, covers not only all useful plants and crops, but also livestock, poultry, fur-bearing animals, and bees, and flowers and nursery stock. It excludes forest products other than nuts, fruits, sap, gum, and oils. Also under the Executive Orders an industry, trade, or subdivision thereof is engaged in handling an unprocessed agricultural commodity if it is engaged in the distribution, cleaning, sorting, ginning, threshing, or other separation, grading, canning, preserving, or packing of the commodity prior to its first processing off the farm.

3. In formulating such agreements and codes, the officers of the Agricultural Adjustment Administration will, in order to secure

uniformity of policy and procedure in the execution of the functions of the Agricultural Adjustment Administration as they relate to agreements and codes, be guided by the policies set forth in this statement, by sections 401-410, inclusive, of the Office Regulations, Agricultural Adjustment Administration, as revised, and by the model for marketing agreement—general form, and by the model for code of fair competition—general form. The models shall be followed as to order and subject matter and, except for reasons satisfactory to the Administrator, as to the inclusion of the standard provisions which are incorporated in the models.

4. For administrative and economic reasons an effort should be made (1) to avoid separate marketing agreements and codes of fair competition for small units in an industry, and (2) to bring the several units eventually under one marketing agreement and one code.

5. No marketing agreement or code shall contain provisions impairing the rights of cooperative associations of producers of agricultural commodities or cooperative associations of ultimate consumers of the products thereof. No resale price schedule or other provisions shall discriminate against cooperative associations of buyers.

II. MARKETING AGREEMENT REQUIREMENTS

6. The first and most important mandate of the Agricultural Adjustment Administration is to restore agricultural purchasing power to parity. When a group presents a marketing agreement, the Administration will first determine what is existing price parity for the commodity, the Bureau of Agricultural Economics to furnish the adjusted figures. If the proposed agreement provides or tends to secure parity for the producer, the first mandate will have been discharged. If it appears necessary to curtail production or shipments or to fix resale prices in order to assure parity, the Administration will approve such provisions in marketing agreements, provided the consumer is adequately protected, and provided an unfair competitive advantage is not given to any group of producers, processors, or distributors..

7. Provisions fixing resale prices must be supported by adequate statistical and accounting reports furnished by the industry and submitted prior to a formal hearing on the agreement. Such reports shall be incorporated as a part of record at the formal hearing. This is particularly important because the second mandate of the Agricultural Adjustment Act is to protect the consumer's interest by ensuring that the farmer will receive no greater proportion of the consumer's dollar than during the 1909-1914 period. In case resale prices are fixed, exemptions in favor of public and bona fide private relief agencies shall be included.

8. In connection with fixed resale prices or their omission, service charges, such as commissions, and handling, storage and financing fees, will be carefully scrutinized.

9. Agreements shall contain provisions setting up a supervisory body to aid in the functioning of the marketing agreement, to determine matters of discretion and disputes thereunder, and to cooperate in formulating a blanket agreement and code covering all

industries in the chain of related industries in which the particular industry is a link. The provisions shall be so drawn that all elements of the industry, irrespective of their membership in trade associations, shall be adequately represented. The representation shall extend to producers if any group thereof is a party to the agreement. Where producers have a direct interest, but where no group of producers is a party to the agreement, provision should be made wherever practicable for an advisory committee representative of producers' interests; and in all cases where no group of producers is a party to the agreement, their interests, even if remote, shall be protected by the powers vested in the Secretary of Agriculture. In all cases, the general public interest shall be protected by the powers vested in the Secretary of Agriculture. The Secretary shall retain such supervision and control over the action of the supervisory body as he deems desirable, and may designate agents to keep him advised thereof and to perform such functions as he may require.

10. If a sufficient percentage of the parties to an agreement desire licensing, or if licensing is considered necessary to enforce the provisions of the agreement, a license, substantially in accord with the provisions of the agreement, will be formulated and issued in connection with the agreement.

11. Other marketing agreement requirements may be ascertained from an examination of the model marketing agreement.

III. REQUIREMENTS FOR CODES OF FAIR COMPETITION

12. The mandates of the National Industrial Recovery Act are more numerous than those of the Agricultural Adjustment Act, and include among others the removal of obstructions to the free flow of commerce which diminish the amount thereof, the promotion of the organization of industry for the purpose of cooperative action among trade groups, the elimination of unfair competitive practices, the utilization of the present productive capacity of industries, the avoidance of undue restriction of production except as may be temporarily required, the increase of consumption of industrial and agricultural products through increased purchasing power, and the rehabilitation of industry and the conservation of natural resources. These mandates all involve matters of vital importance to producers, processors, distributors and consumers of agricultural commodities and products.

13. Each code shall include the mandatory provisions of section 7(a) of the National Industrial Recovery Act.

14. Codes may include provisions defining and prohibiting unfair trade practices. Only such practices shall be included as substantially interfere with the effectuation of the declared policy of either act or prevent orderly and economical distribution, and as are of such importance that the Government may appropriately revoke a license with respect to any licensee engaging in such practices. Channels of distribution must be kept open, and the producer and consumer must be protected. No provisions will be included which tend to give unfair competitive advantages to any particular group of processors or distributors. Particular scrutiny will be given these provisions and the group submitting the code must offer complete data supporting its claims.

15. Codes shall include provisions which are particularly applicable to agricultural industries. For example, it is essential that all codes contain provisions supporting existing standards for the protection of producers, processors, distributors, or consumers, in effect under the Federal Food and Drugs Act and other Federal legislation regulating agricultural commodities and foods, together with such additional standards of similar character as the Secretary may find appropriate. Codes dealing with sea food, fish or game should support existing Federal conservation laws and policies.

16. Codes shall contain provisions setting up a supervisory body for the functioning of the code. The provisions shall be so drawn that all elements of the industry, irrespective of their membership in trade associations, shall be adequately represented. Where producers have a direct interest, provision shall be made wherever practicable for an advisory committee representative of producers' interest; and their interests, even if remote, shall be protected by powers vested in the Secretary of Agriculture. In all cases the general public interest shall be protected by powers vested in the Secretary of Agriculture. The Secretary shall retain such supervision and control over the action of the supervisory body as he deems desirable, and may designate agents to keep him advised thereof and to perform such functions as he may require. The National Recovery Administrator shall retain such supervision and control over the acts of the supervisory body relating to hours of labor, rates of pay, and other conditions of employment of labor as he deems desirable, and may designate agents to keep him advised thereof and to perform such functions as he may require.

17. Each code shall contain a provision making it the duty of the supervisory body established pursuant thereto to use every reasonable effort to prevent violations of the requirements of the code and, if any violation continues, to report the violation to the Secretary or the National Recovery Administrator as may be appropriate.

18. There shall not be included in any code any provision permitting monopolies or monopolistic practices, or eliminating, oppressing, or discriminating against small enterprises, or preventing any individual from pursuing the vocation of manual labor and selling or trading the products thereof, or preventing anyone from marketing or trading the produce of his farm.

19. Other code requirements may be ascertained from examination of the model code of fair competition.

MODEL FOR MARKETING AGREEMENT—GENERAL FORM

NOTE.—This model is a guide to be followed, wherever applicable, as to order and subject matter, and except for reasons satisfactory to the Administrator, as to inclusion of the standard provisions drafted.¹

MARKETING AGREEMENT FOR

(Name of commodity and, if desirable, the locality)

ARTICLE I²

Purposes.

The parties to this agreement are the contracting distributors, the contracting producers,³ and the Secretary of Agriculture of the United States.

Whereas, it is the declared policy of Congress as set forth in section 2 of the Agricultural Adjustment Act, approved May 12, 1933, as amended—

(a) To establish and maintain such balance between the production and consumption of agricultural commodities and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base period, the base period in the case of all agricultural commodities except tobacco being the pre-war period, August 1909–July 1914, and in the case of tobacco, the base period being the post-war period, August 1919–July 1929;

(b) To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demand in domestic and foreign markets; and

(c) To protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmer, above the percentage which was returned to the farmer in the pre-war period, August 1909–July 1914;—

And—

Whereas, pursuant to the Agricultural Adjustment Act, the parties hereto, for the purpose of correcting conditions now obtaining in the production of [agricultural commodity] in [locality] and the distribution thereof, and to effectuate the declared policy of the act, desire to enter into a marketing agreement under the provisions of section 8 (2) of the act;

Now therefore, the parties hereto agree as follows:

ARTICLE II

Definitions.

SECTION 1. As used in this agreement,—

(a) The term "Secretary" means the Secretary of Agriculture of the United States.

¹ The "Statement of General Policies" herein referred to is the statement of general policies governing marketing agreements and codes of fair competition set forth in this pamphlet.

² "Articles" are designated by roman numerals; "sections" by arabic numerals; "paragraphs" by small letters in parentheses; "clauses" by arabic numerals in parentheses.

³ Reference throughout this agreement to "contracting producers" to be including only if associations of producers are to become parties signatory to the agreement.

(b) The term "act" means the Agricultural Adjustment Act, approved May 12, 1933, as amended.

(c) The term "person" means individual, partnership, corporation, association and any other business unit.

(d) [Definition of the agricultural commodity and/or products thereof, if necessary.]

(e) [Definition of contracting producers, if necessary. Only associations of producers engaged in handling the agricultural commodity or products thereof and who become parties signatory to the agreement according to the terms thereof, shall be covered by the definition. Eligibility requirements may also be included.]

(f) [Definition of contracting distributors. Only processors and others engaged in the handling of the agricultural commodity or products and who become parties signatory to the agreement according to the terms thereof shall be covered by the definition. Eligibility requirements may also be included.]

(g) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, papers, correspondence or other written data pertaining to the business of the person in question.

(h) The term "subsidiary" means any person, of or over whom, the contracting distributor or contracting producer has, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

(i) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a contracting distributor or contracting producer, whether by stock ownership or in any other manner.

(j) Etc. [And other necessary definitions.]

ARTICLE III

Minimum prices to producer.

SECTION 1. [Obligation of contracting distributors to pay at least scheduled minimum prices for the agricultural commodity purchased from producers. See par. 6 of Statement of General Policies. The schedule for such prices and related requirements shall be set forth in an exhibit A hereto. In the event that the schedule of prices is subject to change by agreement between contracting producers and contracting distributors, it should be expressly provided that such changes shall become effective only upon the written approval of the Secretary.]

ARTICLE IV

Maximum prices to consumers.

SECTION 1. [Obligation of contracting distributors to sell at or at not more than scheduled maximum prices. See par. 7 of Statement of General Policies. The schedule for such prices and related requirements shall be set forth in an exhibit B hereto. In the event that the schedule of prices is subject to change by agreement between the contracting producers and the contracting distributors, it should be expressly provided that such changes shall become effective only upon the written approval of the Secretary.]

ARTICLE V

Service charges.

SECTION 1. [Obligation of contracting distributors to conform to schedule of service charges, such as commissions and handling, storage and financing fees. The schedule of such charges shall be set forth in an exhibit C hereto. In the event that the schedule of such charges is subject to change by agreement between the contracting producers and the contracting distributors, it should be expressly provided that such changes shall become effective only upon the written approval of the Secretary.]

ARTICLE VI

Marketing quotas.

SECTION 1. [Obligation of contracting distributors, and where necessary, contracting producers, to conform to quota and restricted shipment requirements. See par. 6 of Statement of General Policies. Such requirements shall be set forth in an exhibit D hereto. In the event that the schedule of such quotas and restricted shipments is subject to change by agreement between the contracting producers and the contracting distributors, it should be expressly provided that such changes shall become effective only upon the written approval of the Secretary.]

ARTICLE VII

Reports.

SECTION 1. The contracting distributors and the contracting producers shall severally, from time to time, upon the request of the Secretary, furnish him such information, on and in accordance with forms of reports to be supplied by him, as may be necessary for the purposes of (1) assisting the Secretary in the furtherance of his powers and duties with respect to this agreement, and/or (2) enabling the Secretary to ascertain and determine the extent to which the declared policy of the act and the purposes of this agreement will be effectuated, such reports to be verified under oath.

SEC. 2. The contracting distributors and contracting producers also severally agree that, for the same purposes, and/or to enable the Secretary to verify the information furnished him on said forms of report, all their books and records, and the books and records of their affiliates and subsidiaries, shall during the usual hours of business be subject to the examination of the Secretary.

SEC. 3. Contracting distributors and contracting producers shall severally keep books and records which will clearly reflect all financial transactions of their respective businesses and the financial condition thereof, and shall see to it that their respective affiliates keep such records.

SEC. 4. All information furnished the Secretary pursuant to this article shall remain confidential in accordance with the applicable General Regulations, Agricultural Adjustment Administration.

ARTICLE VIII

Supervisory body.

SECTION 1. [Supervisory body for industry. See par. 9 of Statement of General Policies.]

ARTICLE IX

Licensing.

SECTION 1. [This section to be included under circumstances set forth in par. 10 of Statement of General Policies.] The contracting distributors hereby apply for and consent to licensing by the Secretary, subject to the applicable General Regulations, Agricultural Adjustment Administration.

ARTICLE X

Effective time.

SECTION 1. This agreement shall become effective at such time as the Secretary may declare above his signature attached hereto, and this agreement shall continue in force until terminated as follows:

(a) The Secretary may at any time terminate this agreement as to all parties thereto by giving at least one day's notice by means of a press release or in any other manner which the Secretary may determine.

(b) The Secretary may at any time terminate this agreement as to any party signatory thereto, by giving at least one day's notice, by depositing the same in the mail and addressed to such party at his last known address.

(c) The Secretary shall terminate this agreement upon the request of ——— percent of the contracting producers or ——— percent of the contracting distributors, such percentage to be measured by the volume of [agricultural commodity or products thereof] marketed or distributed, respectively, by giving notice in the same manner as provided in paragraph (a) above.

(d) This agreement shall in any event terminate whenever the provisions of the act authorizing it cease to be in effect.

ARTICLE XI

Duration of immunities.

SECTION 1. The benefits, privileges, and immunities conferred by virtue of this agreement shall cease upon its termination, except with respect to acts done prior thereto; and the benefits, privileges and immunities conferred by this agreement upon any party signatory hereto shall cease upon its termination as to such party except with respect to acts done prior thereto.

ARTICLE XII

Counterparts.

SECTION 1. This agreement may be executed in multiple counterparts, which when signed by the Secretary shall constitute, when taken together, one and the same instrument as if all such signatures were contained in one original.

ARTICLE XIII

Additional parties.

SECTION 1. After this agreement first takes effect any association of producers or any distributor [insert conditions of eligibility] may become a party to this agreement, if a counterpart thereof is executed by him and by the Secretary. This agreement shall take effect as to such new contracting party at such time as the Secretary may

declare above his signature attached to such counterpart, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.

ARTICLE XIV

Agents.

SECTION 1. The Secretary may by a designation in writing, name any person, including any officer or employee of the Government, to act as his agent in connection with any of the provisions of this agreement.

ARTICLE XV

Signatures of Parties.

In witness whereof the contracting parties, acting under the provisions of the Agricultural Adjustment Act, for the purposes and subject to the limitations herein contained, and not otherwise, have hereunto set their respective hands and seals.

Whereas, it is provided by section 8 of the act as follows:

In order to effectuate the declared policy, the Secretary of Agriculture shall have power to enter into marketing agreements with processors, associations of producers, and others engaged in the handling in the current of interstate or foreign commerce of any agricultural commodity or product thereof, after due notice and opportunity for hearing to interested parties. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful: *Provided*, That no such agreement shall remain in force after the termination of this act;

And—

Whereas, due notice and opportunity for hearing to interested parties has been given pursuant to the provisions of the act, and the regulations issued thereunder; and

Whereas,⁴ the Secretary finds (1) that the contracting producers and the contracting distributors are engaged in the handling of (commodity and/or products thereof) in the current of interstate (and/or foreign) commerce; and (2) that the conditions existing in the marketing and distribution of (commodity and/or products thereof) in intrastate commerce burden the marketing and distribution of (commodity and/or products thereof) in interstate (and/or foreign) commerce; and (3) that the marketing and distribution of (commodity and/or products thereof) in intrastate commerce is inextricably intermingled with their marketing and distribution in interstate (and/or foreign) commerce; and

Whereas, it appears, after due consideration, that this agreement will tend to effectuate the policy of Congress declared in section 2 of the act, as hereinbefore in this agreement set forth:

Now therefore, I, Henry A. Wallace, Secretary of Agriculture, acting under the provisions of the Agricultural Adjustment Act, for the

⁴ Include such of the three findings as are applicable with respect to the particular industry.

purposes and within the limitations therein contained, and not otherwise, do hereby execute this agreement under my hand and official seal of the Department of Agriculture, in the city of Washington, D.C., on this —— day of ——, and pursuant to the provisions hereof declare this agreement to be effective on and after —— eastern standard time, ——.

[SEAL]

-----,
Secretary of Agriculture.

NOTE.—Immediately hereafter shall follow the several exhibits referred to in the agreement.

MODEL OF CODE OF FAIR COMPETITION—GENERAL FORM

NOTE.—This model is a guide to be followed, wherever applicable as to the order and subject matter, and except for reasons satisfactory to the Administrator of the Agricultural Adjustment Administration as to the inclusion of the standard provisions drafted.⁵ This model is applicable only to trades or industries or subdivisions thereof falling within the jurisdiction of the Secretary of Agriculture pursuant to the several Executive Orders issued by the President under the National Industrial Recovery Act. (See paragraph 2 of Statement of General Policies.)

CODE OF FAIR COMPETITION FOR

(Name of industry⁶ and, if desirable the locality)

ARTICLE I⁷

Purposes.

Whereas, it is the declared policy of Congress as set forth in section 1 of title I of the National Industrial Recovery Act:

to remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; and to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, to induce and maintain united action of labor and management under adequate governmental sanctions and supervision, to eliminate unfair competitive practices, to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue restriction of production (except as may be temporarily required), to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor, and otherwise to rehabilitate industry and to conserve natural resources;

NOW THEREFORE, to effectuate such policy, the following provisions are established as a code of fair competition for the [industry], and upon approval by the President, shall be the standards of fair competition for such industry and shall be binding upon every member thereof.

ARTICLE II

Definitions.

SECTION 1. As used in this code,—

(a) The term “President” means the President of the United States.

(b) The term “Secretary” means the Secretary of Agriculture of the United States.

(c) The term “National Recovery Administrator” means the duly designated representative of the President to administer such functions and powers under title I of the National Industrial Recovery Act as are not delegated to the Secretary by Executive Order.

(d) The term “act” means title I of the National Industrial Recovery Act, approved June 16, 1933.

(e) The term “person” means individual, partnership, corporation, association and any other business unit.

(f) The “[name] Industry” includes the [state accurately what is included in the industry, whether manufacturing, transporting, sell-

⁵ The “Statement of General Policies” herein referred to is the statement of general policies governing marketing agreements and codes of fair competition set forth in this pamphlet.

⁶ There may be substituted for the name of an industry throughout the code, the name of a trade or subdivision of a trade or industry.

⁷ “Articles” are designated by roman numerals; “sections” by arabic numerals; “paragraphs” by small letters in parentheses; “clauses” by arabic numerals in parentheses.

ing and/or distributing at wholesale or retail, etc.] of [commodity or product].

(g) The term "employee" means any person engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

(h) The term "employer" means any person by whom any such employee is compensated or employed.

(i) The term "member of the industry" means any person engaged in the industry, either as an employer or on his own behalf.

(j) The term "State" includes Territory and the District of Columbia.

(k) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, papers, correspondence or other written data pertaining to the business of the person in question.

(l) The term "subsidiary" means any person, of or over whom, a member of the industry has, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

(m) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a member of the industry, whether by stock ownership or in any other manner.

(n) Etc. [And other necessary definitions].

ARTICLE III

Hours.

SECTION 1. No employee shall be permitted to work in excess of _____ hours in any one week or _____ hours in any 24-hour period [Exceptions, if any, should be inserted here, together with the hours applicable to such exceptions].

SEC. 2. The maximum hours fixed in the foregoing paragraph shall not apply to any employee on emergency maintenance or emergency repair work involving breakdowns or protection of life or property, but in any such special case at least _____ times his normal rate shall be paid for hours worked in excess of the maximum hours herein provided.

SEC. 3. No employee shall be permitted to work more than _____ days in any _____ day period.

ARTICLE IV

Wages.

SECTION 1. No employee shall be paid at less than the rate of _____ dollars per week of _____ hours [or _____ cents per hour]. [If there are to be wage rates for employees above the minimum, they should be set forth here.]

SEC. 2. This section establishes a minimum rate of pay, regardless of whether an employee is compensated on a time-rate, piecework, or other basis.

SEC. 3. [Definite plan for an equitable adjustment of those rates above the minimum.]

SEC. 4. Female employees performing substantially the same work as male employees shall receive the same rates of pay as male employees.

ARTICLE V

General labor provisions.

SECTION 1. No individual under _____ years of age shall be employed in the industry, nor anyone under _____ years of age

at operations or occupations hazardous in nature or detrimental to health. The supervisory body for the industry shall submit to the National Recovery Administrator before [date] a list of such occupations. In any State an employer shall be deemed to have complied with this provision if he shall have on file a certificate or permit duly issued by the authority in such State empowered to issue employment or age certificates or permits, showing that the employee is of the required age.

SEC. 2. Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

SEC. 3. No employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing.

SEC. 4. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

SEC. 5. Within each State this code shall not supersede any laws of such State imposing more stringent requirements on employers regulating the age of employees, wages, hours of work, or health, fire or general working conditions than under this code.

SEC. 6. Employers shall not reclassify employees or duties of occupations performed by employees so as to defeat the purposes of this code.

SEC. 7. Each employer shall post in conspicuous places full copies of the code.

ARTICLE VI

Unfair methods of competition.

A. The following practices constitute unfair methods of competition:

SECTION 1. *False advertising.*—To publish or disseminate in any manner any false advertisement of any food. An advertisement shall be deemed to be false if it is untrue in any particular, or if directly or by ambiguity or inference it creates a misleading impression or includes any representations concerning any curative, therapeutic, or preventive effect which is contrary to the general agreement of medical opinion.

SEC. 2. *Misbranding.*—To sell or otherwise introduce into commerce any food that is misbranded. A food shall be deemed to be misbranded.—

(a) *Standards of fill.*—If its container is so made, formed, or filled as to mislead the purchaser, or (2) its contents fall below the standard of fill to be prescribed by regulations of the Secretary hereunder.

(b) *Standards of identity.*—If it purports to be or is represented as a food for which a definition of identity has been prescribed by regulations of the Secretary hereunder and fails to conform to the definition.

(c) *Standards of quality.*—If it purports to be or is represented as a food for which standards of quality have been prescribed by

regulations of the Secretary hereunder, and (1) fails to state on the label, if so required by the regulations, its standard of quality in such terms as the regulations specify, or (2) falls below the standard stated on the label.

(d) *Label requirements*.—(1) If in package form and it fails to bear a label containing the name and place of business of the manufacturer, packer, seller, or distributor.

(2) Commencing on ———, if its label fails to bear (1) the common or usual name of the food, if any there be, and (2) the common or usual name of each ingredient thereof in order of predominance by weight; except that spices, flavors, and artificial colors may be designated as such without naming each spice, flavor, or artificial color. The Secretary is hereby authorized to prescribe by regulations requirements for such further information on the label thereof as he may deem necessary to protect the public from deception.

(3) If any word, statement, or other information required on the label to avoid misbranding under any provision of this section, is not prominently placed thereon in such a manner as to be easily seen and in such terms as to be readily intelligible to the purchasers and users of such articles under customary conditions of purchase and use.

(e) *Food and Drugs Act requirements*.—If it is misbranded within the meaning of the Federal Foods and Drugs Act, as now or hereafter amended.

SEC. 3. As used in sections 1 and 2 of this article, the term “food” means human and animal foods, including beverages, confectionery and condiments, and all substances or preparations used for food or entering principally into the composition of food.

SEC. 4. *Producer standards*.—Subject to such regulations as may be prescribed by the Secretary, to purchase from, or sell or otherwise dispose of on behalf of, any producer or association of producers, any agricultural commodity that is the product of the farm of such producer or a member of such association, except in accordance with such definitions of identity and standards of quality as may be promulgated for such agricultural commodity by regulations of the Secretary prescribed hereunder.

SEC. 5. *Miscellaneous practices*.—(Other unfair practices. See pars. 14 and 15 of Statement of General Policies.)

Regulations.

B. Regulations for the purposes of this article shall be prescribed by the Secretary only after due notice and opportunity for hearing to members of the industry and other interested persons.

ARTICLE VII

Reports.

SECTION 1. The members of the industry shall severally, from time to time, upon the request of the Secretary (or the Secretary or the National Recovery Administrator in case of information relating to hours of labor, rates of pay, or other conditions of employment) furnish such information, on and in accordance with forms of reports to be supplied, as may be deemed necessary for the purposes of (1) assisting in the furtherance of the powers and duties of the Secretary or the National Recovery Administrator with respect to

this code and/or (2) enabling the Secretary or the National Recovery Administrator to ascertain and determine the extent to which the declared policy of the act and the purposes of this code will be effectuated, such reports to be verified under oath.

SEC. 2. The members of the industry shall severally permit, for the same purposes and/or to enable the Secretary or the National Recovery Administrator to verify the information furnished on said forms of reports, all their books and records and the books and records of their affiliates and subsidiaries, to be examined by the Secretary or the National Recovery Administrator during the usual hours of business.

SEC. 3. The members of the industry shall severally keep books and records which will clearly reflect all financial transactions of their respective businesses and the financial condition thereof, and shall see to it that their respective subsidiaries and affiliates keep such records.

SEC. 4. All information furnished the Secretary pursuant to this article shall remain confidential in accordance with the applicable General Regulations, Agricultural Adjustment Administration.

ARTICLE VIII

Supervisory body.

SECTION 1. [Supervisory body for industry. See par. 16 of Statement of General Policies.]

SEC. 2. [Requirement as to supervisory body using every reasonable effort to prevent violation of this code. See par. 17 of Statement of General Policies.]

ARTICLE IX

Duration of immunities.

SECTION 1. The benefits, privileges and immunities conferred by this code shall cease upon its termination except with respect to acts done prior thereto.

ARTICLE X

Agents.

SECTION 1. The Secretary and the National Recovery Administrator may each by designation in writing name any person, including any officer or employee of the Government, to act as his agent in connection with his respective powers and duties under any provision of this code.

ARTICLE XI

Modification.

SECTION 1. This code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provision of section 10 (b) of the act, from time to time, to cancel or modify any order, approval, license, rule or regulation issued under the act, and specifically, but without limitation, to the right of the President to cancel or modify his approval of the code or any conditions imposed by him upon his approval thereof.

ARTICLE XII

Effective time.

SECTION 1. This code shall become effective on the ——— day after its approval by the President.

